

Hamish Thomson

From: Jake Arnold <JakeArnold@windstream.net>
Sent: Thursday, June 30, 2016 5:06 PM
To: Hamish Thomson
Subject: NNMC Provost/VP Pedro Martinez Removed Today

Hamish—

The NNMC Board of Regents today removed controversial Provost/Vice president for Academic Affairs Dr. Pedro Martinez from his position. The vote to do so came during an open session of the BOR following an executive session during which the BOR was to discuss “management contracts” according to their published agenda.

Apparently Pedro may continue as a tenured faculty member (at a substantially reduced salary) as his employment contract gave him status as a tenured faculty member regardless of his position as provost/VP, i.e. he could assume the faculty position (with tenure) if/when the BOR should choose not to retain him as provost/VP. I believe the end date of his contract (presumably calling for a two-year period as provost/VP) is today (6/30/16) and BOR simply declined to renew it, but did not consider the reasons for effectively terminating him from his executive position to be sufficient for invoking the “for cause” provisions that could remove his tenure status.

I understand that Pedro is this moment searching for an attorney to challenge the BOR action, but non-renewal of a contract (and not challenging his tenure status, thereby allowing him now to receive the same salary as other professors) might be quite difficult to establish as a tort unless Pedro could somehow demonstrate that the whistleblower stature applied to him and retaliation was the true motive in not renewing his provost/VP contract.

Pedro had previously battled former present Rusty Barceló over her *movidas* on him for what were widely believed to be unfounded/spurious allegations of misconduct—story making the rounds back then (late last year) that Rusty had even hired (without BOR knowledge) a private investigator to probe Pedro’s supposed transgressions/background. One theory re: Rusty’s termination was that her battle with Pedro was a factor in her termination. It was then unclear if Domingo had a dog in that fight, but the consensus was that while there was no love lost between Domingo and Pedro, Domingo nonetheless was only too happy to see Rusty tarnished in the eyes of the BOR as a result of the hush-hush struggle vis-à-vis Pedro.

Last week Interim President/Finance & Administration VP Domingo Sanchez told a group of us in El Rito (SVJ members) that both he and Pedro, as of 7/1/16, would be “at will” employees, i.e. unprotected by employment contracts. Perhaps Domingo last week saw this coming.

By all accounts the faculty today is of two minds re: this latest development. On the one hand Pedro has made a lot of enemies and most faculty see him unfit as Provost/VP—lots of tales regarding his weird/unseemly behavior. In this regard the story of Pedro’s attempt to block—physically—me and Tim Crone from attending a BOR event (meeting according to the Open Meetings Act as a quorum was anticipated) was well-known to many faculty/staff.

But on the other hand, they are concerned about the “process” of his effective termination (especially the timing—if he had to go, why not months ago’ recall he did not make the presidential-search finalists list) and who in hell can/be willing now to take over, among the sitting deans/departments heads and how could the BOR/new president Rick Bailey find an outside replacement at this late date in the academic year.

Under separate cover I am sending you the substantive response by NNMC to my comprehensive IPRA request of this past winter. Also, I am sending you my message to the NNMC records custodian complaining about delays/stonewalling (and her response) of this past April. Interesting juxtaposition of dates/events I would say.

--Jake

Hamish Thomson

From: Flores, Arnold & Fiori <FloresArnoldFiori@windstream.net>
Sent: Thursday, June 30, 2016 5:06 PM
To: Hamish Thomson
Subject: FW: IPRA Response Letter
Attachments: IPRA Response Letter to J. Arnold. 06.30.2016.pdf

Finally!!! We'll see what their redactions are, but it looks like to flat-out denials.

From: Brandi Cordova [mailto:bcordova@nnmc.edu]
Sent: Thursday, June 30, 2016 1:01 PM
To: FloresArnoldFiori@windstream.net
Subject: IPRA Response Letter

Good afternoon Mr. Arnold,

Please see the attached letter.

Thank you,

Brandi Cordova
Executive Assistant to the VP for Finance & Administration
Northern New Mexico College
921 Paseo de Oñate
Española, NM 87532
Email: bcordova@nnmc.edu
Ph: 505-747-2129

Hamish Thomson

From: Flores, Arnold & Fiori <FloresArnoldFiori@windstream.net>
Sent: Thursday, June 30, 2016 5:06 PM
To: Hamish Thomson
Subject: FW: IPRA Request
Attachments: IPRA Response. Flores Arnold & Fiori. April 26. 2016.pdf

Brandi's response to my complaint re: suspected IPRA stonewalling.

From: Brandi Cordova [mailto:bcordova@nnmc.edu]
Sent: Tuesday, April 26, 2016 5:39 PM
To: FloresArnoldFiori@windstream.net
Subject: Re: IPRA Request

Good afternoon Mr. Arnold,

Please see the attached letter.

Thank you,

Brandi Cordova
Executive Assistant to the VP for Finance & Administration
Northern New Mexico College
921 Paseo de Onate
Española, NM 87532
Email: bcordova@nnmc.edu
Ph: 505-747-2129

NORTHERN New Mexico College



April 26, 2016

Jake Arnold, Managing Director
FLORES, ARNOLD & FIORI
P.O. Box 1492
Santa Cruz NM 87567
FloresArnoldFiori@windstream.net
JakeArnold@windstream.net

RE: Your April 25, 2016, Email Inquiry

Dear Mr. Arnold:

Northern New Mexico College is in receipt of your April 25, 2016, inquiry regarding the status of your January 29, 2016, IPRA request. First, please be advised that I am the custodian of records for NNMCC. Therefore, the College rejects any suggestion in your letter that others also are serving in this role.

Second, as explained in the College's February response to you, your multiple requests, which included innumerable subparts, were very clearly unduly burdensome. Because of the voluminous nature of the requests, the College invoked its right to take additional time to respond. The College remains committed to providing you with responses by June 30th. However, you must understand that this is a multi-layered process that involves locating and fully reviewing materials for each request before a response is issued to you. That being said, the College believes it is making progress under the timeline provided to you, and it will provide responses as each one is completed.

Finally, the College rejects any suggestion that it is not acting "in good faith." You have made massive requests that require substantial hours and work, and the College is well-within the dates it gave you for responding. I greatly appreciate your continued courtesy and patience.

Sincerely,

Brandi Cordova
NNMC Custodian of Records

NORTHERN New Mexico College



February 2, 2016

FLORES, ARNOLD & FIORI
Jake Arnold, Managing Director
P.O. Box 1492
Santa Cruz NM 87567
FloresArnoldFiori@windstream.net
JakeArnold@windstream.net

RE: Your IPRA Request

Dear Mr. Arnold:

I am in receipt of your IPRA request from January 29, 2016.

After reviewing the list of 19 requests submitted by you, as well as the associated subparts, the College believes that the requests are unduly burdensome and will require substantial in-person and time-intensive review of paper files. For that reason, the College will be asserting its right under IPRA for an extended period for responding to your requests.

The College is treating your submission as one IPRA request. That being said, the College will provide you with responses to each portion as they are completed, as per your request. However, because of the voluminous nature of your requests, the College sets June 30, 2016, as a response date for providing a response for all portions.

Furthermore, an initial review of your materials suggests that some IPRA exclusions may apply, and therefore, please know that the College is in no way guaranteeing access where the statute does not treat the materials as public records subject to inspection.

Also, should there be some unexpected complication that requires additional time, the College will alert you prior to June 30th if it will be taking additional time for response.

Sincerely,

Brandi Cordova
NNMC Public Records Custodian

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Court of Appeals of North Carolina.

Pedro L. MARTINEZ, Plaintiff, v. The UNIVERSITY OF NORTH CAROLINA, Defendant.

No. COA12-396.

Decided: November 20, 2012

David B. Puryear of Puryear & Linge PLLC, attorney for plaintiff. Attorney General Roy Cooper, by Assistant Attorney General Brian R. Berman, for The University of North Carolina.

Appeal by plaintiff from order entered 18 January 2012 by Judge Anderson D. Cromer in Guilford County Superior Court. Heard in the Court of Appeals 10 October 2012.

Pedro L. Martinez (plaintiff) appeals from an order granting a motion to dismiss in favor of The University of North Carolina (defendant). We reverse and remand.

In August 2008, plaintiff was employed as provost of Winston Salem State University (WSSU), a constituent institution of defendant. Sometime that month, plaintiff was approached by the chancellor of WSSU and asked to resign from his position as provost, and to accept a full-time faculty position. Plaintiff agreed, and he entered into a written contract with WSSU (the contract). The contract, titled "Settlement Agreement," governed the terms of plaintiff's transition from provost to full-time faculty member. The contract provided that plaintiff "shall continue to receive full administrative annual salary of \$180,000.00 . from September 1, 2008 and ending June 30, 2009," after which, plaintiff would then "retreat to the Faculty of the School of Education at a salary commensurate with comparable salaries of senior faculty in the School of Education as determined at that time."

In May 2009, WSSU notified plaintiff that he would be paid an annual salary of \$85,000.00 per year as a full-time faculty member. However, plaintiff was not satisfied with that salary. According to plaintiff, that amount was "not a salary commensurate with salaries paid to other senior tenured faculty members employed by defendant who have retreated from an administrative position [.]". Plaintiff then initiated a grievance, and a faculty grievance committee investigated his argument. The committee determined that plaintiff's salary was appropriate, and plaintiff appealed this decision to the new provost of WSSU. The new provost affirmed the decision on 1 March 2010. Plaintiff then continued his appeal to the chancellor of WSSU, who also affirmed the decision on 23 March 2010.

On 17 May 2011, plaintiff filed suit against defendant for 1) breach of contract and 2) violation of the Wage and Hour Act. However, on 14 September 2011, plaintiff amended his complaint, alleging only a claim for breach of contract. On 21 September 2011, defendant filed a motion to dismiss 1) pursuant to Rules 12(b)(1) and (2) of the North Carolina Rules of Civil Procedure under the theory of sovereign immunity and 2) pursuant to Rule 12(b)(6) of the North Carolina Rules of Civil Procedure for failure to state a claim upon which relief can be granted. On 18 January 2012, the trial court entered an order granting defendant's motion. Plaintiff now appeals.

II. Arguments

A. Sovereign immunity

Plaintiff first argues that the trial court erred in dismissing his amended complaint pursuant to Rules 12(b)(1) and (2) because defendant waived its sovereign immunity. We agree.

i. 12(b)(2)

"[A]n appeal of a motion to dismiss based on sovereign immunity presents a question of personal jurisdiction rather than subject matter jurisdiction[.]". Data Gen. Corp. v. Cnty. of Durham, 143 N.C.App. 97, 100, 545 S.E.2d 243, 245-46 (2001) (citations omitted). We must review the record to determine whether there is evidence to support the trial court's determination that exercising its jurisdiction would be appropriate. See Stacy v. Merrill, 191 N.C.App. 131, 134, 664 S.E.2d 565, 567 (2008) (Holding that "[t]he standard of review of the trial court's decision to grant a motion to dismiss under Rule 12(b)(2) is whether the record contains



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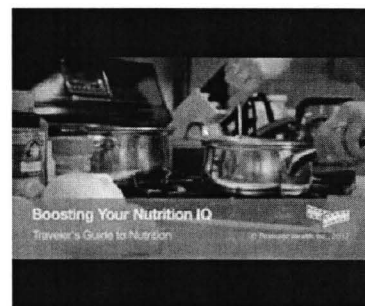
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evidence that would support the court's determination that the exercise of jurisdiction over defendants would be inappropriate.").

It is a well established rule that "[t]he State cannot be sued in its own courts or elsewhere unless it has expressly consented to such suits." *Stahl-Rider, Inc. v. State*, 48 N.C.App. 380, 383, 269 S.E.2d 217, 219 (citation omitted). However, our Supreme Court has held that

whenever the State of North Carolina, through its authorized officers and agencies, enters into a valid contract, the State implicitly consents to be sued for damages on the contract in the event it breaches the contract. Thus, in this case, and in causes of action on contract arising after the filing date of this opinion, 2 March 1976, the doctrine of sovereign immunity will not be a defense to the State. The State will occupy the same position as any other litigant.

Smith v. State, 289 N.C. 303, 320, 222 S.E.2d 412, 423-24 (1976) (citation omitted).

Here, defendant, an agency of the State, entered into a contract with plaintiff regarding employment and salary. As such, defendant waived its sovereign immunity to suit based on a claim for breach of that contract. Accordingly, we conclude that the trial court erred in dismissing plaintiff's complaint pursuant to Rule 12(b)(2).

i. 12 (b)(1)

Likewise, we also conclude that the trial court erred in dismissing plaintiff's complaint pursuant to Rule 12(b)(1). "An action is properly dismissed under Rule 12(b)(1) for lack of subject matter jurisdiction where the plaintiff has failed to exhaust administrative remedies. An appellate court's review of such a dismissal is de novo." *Johnson v. Univ. of N.C.*, 202 N.C.App. 355, 357, 688 S.E.2d 546, 548 (2010) (quotations and citations omitted).

Here, it is clear from the record that plaintiff exhausted the administrative remedies available to him. Before filing suit, plaintiff initiated a grievance with the faculty grievance committee, an appeal with the provost, and a further appeal with the chancellor.

B. Failure to state a claim

Plaintiff next argues that the trial court erred in dismissing his amended complaint pursuant to 12(b)(6) because the amended complaint adequately pled all elements of a cause of action for breach of contract. We agree.

"The motion to dismiss under N.C.R. Civ. P. 12(b)(6) tests the legal sufficiency of the complaint. In ruling on the motion the allegations of the complaint must be viewed as admitted, and on that basis the court must determine as a matter of law whether the allegations state a claim for which relief may be granted." *Stanback v. Stanback*, 297 N.C. 181, 185, 254 S.E.2d 611, 615 (1979) (citations omitted). "The elements of breach of contract are (1) the existence of a valid contract and (2) breach of the terms of the contract." *Long v. Long*, 160 N.C.App. 664, 668, 588 S.E.2d 1, 4 (2003) (quotations and citation omitted).

Here, plaintiff's amended complaint alleged 1) "plaintiff contracted with defendant to receive, upon his return to a full time tenured faculty position, a salary commensurate with salaries paid to other senior tenured faculty members who have retreated from an administrative position" and 2) "[d]efendant breached its contract with plaintiff by failing and refusing to pay plaintiff, upon his return to his full time tenured faculty position, a salary commensurate with comparable salaries of senior faculty[.]" When viewed as admitted, these allegations state a valid claim for breach of contract. Thus, we conclude that the trial court erred in dismissing plaintiff's complaint pursuant to Rule 12(b)(6).

III. Conclusion

In sum, we conclude that the trial court erred in dismissing plaintiff's claim pursuant to Rules 12(b)(1), (2), and (6). We reverse the trial court's order and remand for further proceedings.

Reversed and Remanded.

ELMORE, Judge.

Judges STROUD and BEASLEY concur.

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Hamish Thomson

From: Flores, Arnold & Fiori <FloresArnoldFiori@windstream.net>
Sent: Thursday, June 30, 2016 5:06 PM
To: Hamish Thomson
Subject: FW: IPRA Request
Attachments: IPRA Response. Flores Arnold & Fiori. Feb. 2. 2016.pdf

FYI: Sent same day Pedro Martinez tried physically to block me and Tim Crone from attending a BOR function (dinner with representatives of the Higher Learning Commission) at which a quorum of the BOR was anticipated to be present.

I believe you have already received a copy of this item—back in April.

From: Flores, Arnold & Fiori [mailto:FloresArnoldFiori@windstream.net]
Sent: Monday, April 25, 2016 5:12 PM
To: 'Brandi Cordova'
Cc: 'chayo@nnmc.edu'; 'damian.martinez@nnmc.edu'; 'kevin.powers@nnmc.edu'; 'melinda_s_deherrera@nnmc.edu'
Subject: RE: IPRA Request

Dear Ms. Cordova:

More than 12 weeks have passed since I submitted these IPRA requests to you as the records custodian at the college (please see my 1/29/16 message to you copied below). I assume that you are taking some direction in this matter from your immediate superior, Domingo Sanchez. Please correct me if I am mistaken in that assumption (see closing paragraphs below).

I do now formally object to the position of you (and Mr. Sanchez) that my series of IPRA requests be treated as a single request although I specifically identified each element of 1/29/16 message to you as a distinct and separate IPRA request. This position taken by the college which, in part, you may believe supports your contention that my request was "unduly burdensome, is simply dilatory and is clearly an attempt on the part of the college to evade to compliance with the IPRA.

Please note that back in February I did not formally object to the contention that my 1/29/16 message should be considered as a single IPRA request because your 2/2/16 letter specifically stated "... That [contention re: a single request being said], the College will provide you with response to each portion as they are completed, as per your request."

Your 2/2/16 letter goes on the state "...the College sets June 30, 2016, as a response date for providing a response to all portions."

I then (in February) accepted that good-faith representation on your part at face value, but as I have yet to receive any such response I must conclude that the college may not have actually made those representations in actual good faith.

But as of this day (4/25/16) the college has failed to provide a response to any those portions (separate requests). Surely you have had by now more than enough time to research the college files and provide me the opportunity to inspect several of the records described in my 1/29/16 requests.

Please let me know—without additional delay—the status of your research regarding each of those requests and which of those records I may now inspect.

Please also provide me with the details of Mr. Sanchez' involvement in this matter, including the direction you are receiving from him regarding compliance with my requests. Mr. Sanchez may well be the effective custodian of the records in question (and is thereby the individual responsible for the college's compliance with the IPRA) and it would be more appropriate for him to address the issues I am raising herein. However, some "conflict of interest" issues may be at hand as records directly related to Mr. Sanchez' are described in several of my request.

(I note with some interest that the "compliance" date of June 30, 2016, mentioned in your 2/2/16 letter is "coincidentally" the last day of the fiscal year and is also typically the final day of college administrative staff members' annual employment contracts.)

Best regards,

Jake Arnold
Flores, Arnold & Fiori
(575) 581-9520

From: Brandi Cordova [<mailto:bcordova@nnmc.edu>]
Sent: Tuesday, February 02, 2016 12:57 PM
To: FloresArnoldFiori@windstream.net
Subject: Re: IPRA Request

Good afternoon Mr. Arnold,

Please see the letter I've attached.

Thank you,

Brandi Cordova
Executive Assistant to the VP for Finance & Administration
Northern New Mexico College
921 Paseo de Oñate
Española, NM 87532
Email: bcordova@nnmc.edu
Ph: 505-747-2129

On Fri, Jan 29, 2016 at 11:53 AM, Flores, Arnold & Fiori <FloresArnoldFiori@windstream.net> wrote:

January 29, 2016

Ms. Brandi Cordova

NNMC Records Custodian

Executive Assistant to the VP for Finance & Administration

Northern New Mexico College

921 Paseo de Oñate

Española NM 87532

Via E-mail: bcordova@nnmc.edu

Dear Ms. Cordova:

Pursuant to the New Mexico Inspection of Public Records Act (IPRA), 14-2-1 *et seq.* NMSA 1978, I wish to inspect (but do not wish to obtain copies until my inspection is completed) the following public records of the Northern New State School (common convenience name: Northern New Mexico College).

I wish to inspect any of the records requested as soon as any of them are available, i.e. I wish to proceed with my inspection of these records on an incremental basis and do not wish to wait until all the requested records are available to begin my inspection. Therefore, please consider each numbered item below a distinct and separate request pursuant to the IPRA. Consequently, your disposition of any one of the separate IPRA requests need not be delayed as you are processing any of the other IPRA requests.

These records may be in the form of actual, hard-copy correspondence or other hard-copy documents, e-mail messages, electronic files (such as pdf or Word or other word-processing documents), videos, tapes, photographs, graphics or records maintained in any number of other media/formats.

1. Any communications between former NNMC Vice President Ricky Serna and former NNMC President Nancy "Rusty" Barceló and/or the NNMC Board of Regents (as a body or as individuals) regarding Mr. Serna's tenure/employment as an officer/employee of NNMC college between the dates of November 3, 2015, and the present date (1/29/16).

2. Any communications between NNMC Vice President Pedro Martinez and former NNMC President Nancy "Rusty" Barceló and/or the NNMC Board of Regents (as a body or as individuals) regarding Dr. Barceló's tenure/employment as an officer/employee of NNMC college between the dates of November 3, 2015, and the present date (1/29/16).

3. Any communications between NNMC Vice President/Interim President Domingo Sanchez and former NNMC President Nancy "Rusty" Barceló and/or the NNMC Board of Regents (as a body or as individuals) regarding Dr. Barceló's tenure/employment as an officer/employee of NNMC college between the dates of November 3, 2015, and the present date (1/29/16).

4. Any communication between former NNMC President Nancy "Rusty" Barceló and the NNMC Board of Regents (as a body or as individuals) regarding Dr. Barceló's resignation/termination/retirement or any other record/document related to Dr. Barceló's resignation/termination/retirement between the dates September 1, 2015, and the present date (1/29/16).

4. Any record/document related to the employment, administrative leave, discipline, termination, dismissal, separation of NNMC employee (or former employee) Bernie Padilla and any tort claim notice submitted to NNMC by Bernie Padilla between September 1, 2015, and the present date (1/29/16).

5. Any formal complaint submitted to any NNMC official/employee by any other NNMC employee, former employee or any other individual regarding the conduct of the same Bernie Padilla (identified above) between September 1, 2015, and the present date (1/29/16).

6. Any IPRA request submitted to NNMC by the Rio Grande Sun or any employee or representative of the Rio Grande Sun between September 1, 2015, and the present date (1/29/16).
7. Any statement/memorandum composed and circulated internally within NNMC, or submitted to Bernie Padilla, during the 2015 calendar year by any NNMC employee regarding an incident at El Paragua Restaurant, involving Angelo Jacques and Ricky Serna.
8. Any records, including but not necessarily limited to: insertion orders, purchase orders, advertising contracts/agreements, checks issued, advertising/insertions/distribution services/promotional services/editorial services regarding the Valley Daily Post newspaper (both online and print editions) and/or the Daily Post Media Group Inc. between the dates of January 1, 2015, and the present date (1/29/16).
9. Any records/documents (including correspondence by any attorney acting on behalf of NNMC or the NNMC Board of Regents) in the possession/custody of NNMC officials or employees (including the NNMC Board of Regents as a body or as individuals) regarding Samuel LeDoux between June 1, 2015, and the present date (1/29/16).
10. Any communications between any official/employee/representative of NNMC and any law enforcement agency regarding Samuel LeDoux or Jerome Williams between the dates of January 1, 2015, and the present date (1/29/16). This request includes any record produced by NNMC employees Patricia Trujillo and/or Brooke Espinosa related to any incidents or situation regarding NNMC student Ariadne Bito and the aforementioned Samuel LeDoux and/or regarding any other NNMC student with knowledge of those incidents or situation.
11. Any report or memorandum submitted by anyone to NNMC regarding any investigation conducted by any NNMC employee or entity providing services to NNMC relating to NNMC Vice President Pedro Martinez between the date of June 1, 2015, and the present date (1/29/16).
12. Any report or memorandum submitted by anyone to NNMC regarding any investigation conducted by any NNMC employee or entity providing services to NNMC relating to NNMC employee/former employee Bernie Padilla between the dates of June 1, 2015, and the present date (1/29/16).
13. Any video/tape/disc or video/audio file or electronic data file or hard copy document or e-mail associated with NNMC security cameras/security systems/NNMC security employee activities/investigations or memoranda depicting, or in any way related to, any after-hours entry into the NNMC bookstore by any NNMC official/employee, such possible entry occurring between the dates of May 1, 2015, and July 31, 2015.
14. Any record/document constituting or memorializing a financial transaction regarding payment for NNMC bookstore merchandise obtained by Ryan Cordova, Ricky Serna, Bernie Padilla or Domingo Sanchez (on behalf of any of those individuals or on behalf of others by those individuals) on a private basis, i.e. a transactions not involving internal NNMC purchase order or voucher or similar official/internal NNMC transaction, between May 1, 2015, and September 30, 2015.

15. Any video/tape/disc or video/audio file or electronic data file or hard copy document or e-mail associated with NNMC security cameras/security systems/NNMC security employee activities/investigations or memoranda depicting, or in any way related to, any matter regarding a NNMC computer taken from the NNMC Fine Arts department and seen in the possession of NNMC employees Jerome Williams and/or Ted Griffith on or about June 8, 2015. In regard to this specific request/item, please be aware of a verbal and documentary report submitted to the Espanola Police Department by NNMC employees on or about July 7, 2015—reference Espanola Police Department incident report # 15-07-032. In reference to this specific request/item, my request includes any e-mails regarding this matter sent/received via the NNMC e-mail system by NNMC employees “Dorris” (Doris) Hernandez, Jimi Montoya, Bernie Padilla, Jerome Williams, Ted Griffith, Ricky Serna, and Lisa Przyllas.

16. Any communication between any NNMC official or attorney acting on behalf of NNMC regarding specific request/item #15 above and Jerome Williams or any attorney or representative of Jerome Williams.

17. Any documents related to mileage reimbursements requested by or paid to former NNMC President Nancy “Rusty” Barceló regarding her use of a private vehicle while engaged in NNMC business during the calendar year 2015.

18. Any documents related to reimbursements requested by or paid to former NNMC President Nancy “Rusty” Barceló regarding her travel (air fare, lodging, meals, and related expenditures) while engaged in NNMC business during the calendar year 2015. This request covers any travel to/from any conferences, meetings, etc. both inside and outside the United States. The requested records should indicate the travel destinations in question and the dates of the travel periods. Please reference former NNMC Nancy “Rusty” Barceló’s employment contract with NNMC, which went into effect in year 2012 and was initially to expire in year 2017.

19. Any documents related to billing to NNMC by the law firm of Basham & Basham (or any of that firm’s partners, associates or co-counsel representing NNMC) and any representation agreements/contracts between those attorneys and NNMC that set out the scope and terms of such representation—all for calendar year 2015.

If you have any questions or need any clarifications, please feel free to call me at (575) 581-9520.

Also, in the event you may be considering denial of any of the portions of this omnibus IPRA request on the basis of “attorney-client privilege” or “opinion” or “personnel matter,” please let me know informally of your anticipated position in this regard so that I might bring to you attention recent developments (including court rulings) in the “IPRA arena” and other pertinent proceedings.

Best regards,

FLORES, ARNOLD & FIORI

Jake Arnold, Managing Director

P.O. Box 1492

Santa Cruz NM 87567

FloresArnoldFiori@windstream.net

JakeArnold@windstream.net

NORTHERN New Mexico College



Thursday, June 30, 2016

FLORES, ARNOLD, & FIORI
PO Box 1492
Santa Cruz, NM 87567
FloresArnoldFiori@windstream.net

Re: Inspection of Records

Dear Mr. Arnold:

The College's responses to the materials you requested are ready for review. I had hoped to see you at the meeting today to go over some inspection times with you, but you were not present.

While you requested the materials in electronic format, most of the materials are only available in hard copy, or if we have electronic copy, they require redacting and must be printed to do so. For that reason, the College's responses will be available for physical inspection by you at the College on the following dates in the NNMC Board Room:

Wednesday, July 6, 2016, 2:00 pm – 5:00 pm.

Thursday, July 7, 2016, 9:00 am – 12:00 pm.

Friday, July 8, 2016, 9:00 am – 12:00 pm.

Of course, if you have questions, you are welcome to call me on Tuesday. The College is committed to providing the materials requested on the shortest timeline possible. I appreciate your patience.

Best regards,

Brandi Cordova
NNMC Custodian of Records

Jake Arnold

From: richard rosenstock [richard.rosenstock@gmail.com]
Sent: Saturday, February 06, 2016 8:16 PM
To: JakeArnold@windstream.net
Subject: Re: Donald Martinez/Jacques Case

OSA- They can subpoena them from the College or from us. At minimum OSA can call me.

On Sat, Feb 6, 2016 at 12:54 PM, Jake Arnold <JakeArnold@windstream.net> wrote:

Might you provide then to Hamish at the OSA? I believe the importance of them in this regard is that they would demonstrate that a college administrator misused college resources to further a private matter (Ricky's TRO petition) and also might be instrumental in the OSA's investigations into the role of the Basham firm and the r billings for representation of college (directly or via Risk Management).

From: richard rosenstock [mailto:richard.rosenstock@gmail.com]
Sent: Saturday, February 06, 2016 12:04 PM
To: JakeArnold@windstream.net
Subject: Re: Donald Martinez/Jacques Case

I don't like to provide documents obtained in discovery- and I doubt these would be of much use.

On Sat, Feb 6, 2016 at 10:46 AM, Jake Arnold <JakeArnold@windstream.net> wrote:

Richard—

Donald Martinez Jr. (former NNMC regent) has two numbers. Work (New Mexico State University extension service—Abiquiu) is 505-685-4523. Cell is 505-927-927-1838. I do not know his home/landline in El Rito (or even if he has one). His personal e-mail address is marceybel@gmail.com.

Donald Martinez Sr. (father of the ex-regent), also of El Rito, has two numbers. Landline/business (Zenitram Industries—meat processing plant) is 575-5814576. Cell is 505-469-1350. Home/landline is 575-581-4748 (I never call him at this number as he always quickly responds 24/27 to calls to one of the other numbers). His e-mail address is zenitram@windstrem.net.

I have been meaning to be in touch with you regarding some documents you have related to Angelo's case. I note from the case file that you deposed Ricky's partner (Monique Nicole Romero) and that she confirmed Bernie Padilla had solicited her to compose for him (on college time, using college facilities) a memo re: the incident at El Paragua (TRO case). Monique testified at the deposition that Bernie had obtained similar memos from Ricky and from an uninvolved witness to the incident Gwen Orona (correct spelling of her last name--not "Ocana"), who is a Northern employee and wife

of Northern employee Frank Orona, who was later demoted by Ricky. (BTW—Gwen may have on occasion used a hyphenated last name).

Moving along, you sought to compel production of these memos and the case file documents indicate ultimately prevailed over Mark Komer's initial objections.

On behalf of a group in El Rito—la **Sociedad Venceslao Jaramillo**—I have engaged in several sessions with investigators from the Office of the State Auditor and provided the OSA with extensive documentation re: numerous issues at Northern worthy of OAS investigation/action. I mentioned the Romero/Orona/Serna "El Paragua" memos obtained by Bernie to the chief OAS investigator, Hamish Thomson, CPA/CFF, CFE (former of the Office of the Attorney General). Hamish would like to obtain these documents. Can you provide me/Hamish with copies? I have already given Hamish a copy of that portion of Monique's deposition included in the case file and your motion to compel production.

I presume you by now know that Risk Management has replaced the Basham firm with mark Komer in the two whistleblower lawsuits the Basham firm was initially handling.

You may be aware of the situation involving Bernie and Domingo and former NNMC student/student senator Samuel LeDoux. Via a separate e-mail I am sending you all of the documents in that mess with my synopses re: each one.

Some of us believe the LeDoux matter contributed to Ricky's sudden "resignation," Bernie's dismissal (and Komer's representations that the college could not long represent Bernie's interests and Bernie needed to be represented by his own/independent counsel), and Rusty's sudden/forced early departure. BTW—Tony Ortiz drafted the statement released by the Board of Regents, at the conclusion of their 12/10/15 meeting, stating that Rusty's early departure was "...in the best interests of the College and President Barceló..." Of course the oppress release later sent to news media by the college re: Rusty's early departure did not contain the "...in the best interests..." verbiage.

Perhaps we need to chat. My number is 575-581-9520.

From: richard rosenstock [mailto:richard.rosenstock@gmail.com]
Sent: Friday, February 05, 2016 5:51 PM
To: JakeArnold@windstream.net
Subject:

Hi Jake,

Do you have a phone number for Donald Martinez? Thanks.

Whistleblower cases:

²⁰¹⁴⁰⁶²¹⁸
D-117-CV-201400278—James Biggs plaintiff represented by Christopher Moody, college now represented by Mark Komer (was Basham firm until 1/15/16); case before Hon. Francis Mathew.

D-117-CV-201400278—Angelo Jacques plaintiff represented by Richard Rosenstock/Daniel Yohalem/Katherine Murray, college represented by Mark Komer (from the beginning); case before Hon. Francis Mathew.

D-117-CV-201500094—Patrica Perea plaintiff represented by Christopher Moody, college represented by Mark Komer (from the beginning); case before Hon. Jennifer Attrep.

D-117-CV-201500169—Melissa Velasquez plaintiff represented by Christopher Moody, college represented by Mark Komer (was Basham firm until 1/15/16); case before Hon. Jennifer Attrep.

In all of these cases state Risk Management selected the attorneys representing the college.

Dorm project cases:

D-117-CV-201500041 and **D-117-CV-2015-00359** (consolidated)—college is plaintiff/counter-defendant/defendant pitted against Monument, LLC, represented by Jason Bowles. This is the second of the "dormitory" cases. The Basham firm is representing the college. Risk Management is not involved. The college initiated this battle in an attempt to forestall Monument's debt-collection/mediation efforts. The case is pending before Hon. Jennifer Attrep.

As an historical note, an earlier case related to the initial "dorm project" was dismissed after the plaintiff (Institutional Project Management) and the college reached a settlement. The terms of that settlement are not included in court case file. That case is **D-117-CV-200800427**. A related "IPRA" case brought against the college by the same plaintiff against the college ended with a dismissal pursuant to a settlement between the parties. That case is **D-117-CV-200900265**. Neither of these case files are imaged--inspection requires hard-copy perusal of those files, which are domiciled at the office of the First Judicial Court clerk in Tierra Amarilla.

Related matter:

D-117-CV-2015-00158 (dismissed)—restraining order petition with former (forced resignation) college Vice president Ricky Serna as plaintiff, represented by the Basham firm, defendant/respondent Angelo Jacques represented by Richard Rosenstock/Daniel Yohalem. This case was before Hon. Jennifer Attrep. The case file documents in the Jacques whistleblower case (see above) reveal some linkages between this matter and the Jacques whistleblower case in re: fired (forced resignation) former NNMC Human Resources director Bernie Padilla, who is a named witness in all of the whistleblower cases.

The college's general counsel (but not representing the institution in any of these cases) is Tony Ortiz of Ortiz & Zamora.

to look into something, then that Committee will go get the information and bring it back to the Board of Regents. Mr. Serna stated this is correct and at the same time they will have some ongoing responsibilities that the Board of Regents has agreed in approving the Charter should be looked at on a regular basis such as academic performance of programs, etc. There will be some standing work in addition to other directives as prescribed by the Board of Regents. Regent Damian Martinez stated he would like to make it clear as he knows there are people in the community that have concerns that these standing Committees may be in essence circumventing the Board of Regents. This is not what these are about at all. Mr. Serna stated that is correct. Not only are they not circumventing the Board of Regents but they are not circumventing the policies and procedures that are in place to protect academic freedom, the rights of employees and staff and faculty, etc. They are aimed at allowing members of the Board of Regents to assess the effectiveness of the institution in these three different areas. Regent Garcia stated not only do other institutions have the Committee structure so do governmental entities.

Regent DeHerrera asked how long the Committees for. Mr. Serna stated the Committees are standing in the sense that they exist perpetually until the Board of Regents chooses to change them. Either existence or elements of the Committees altogether or the term of the Regent themselves.

XIII. OLD BUSINESS

None

XIV. PUBLIC INPUT

Regent Garcia stated after the Public Input, the Board of Regents cannot address what is said. Regent Garcia called Samuel LeDoux for public input and notified Mr. LeDoux that he had two minutes to address the Board of Regents. Mr. LeDoux stated he is at the Board of Regents to address the Academic and Student Affairs Committee. Mr. LeDoux believes this Committee has far too much influence over the Board of Regents. Some of the reasons why are:

1. Mr. LeDoux believes that there is less of the influence of the power from the Board of Regents, Student Senate, Faculty Senate, and the people of New Mexico who voted the Governor to approve said Board.
2. Mr. LeDoux believes it lacks representation of proof of bodies such as the Student Senate and the Faculty Senate.
3. Mr. LeDoux is also concerned about an unspecified member at large that can be at risk to political influence and stuff that Boards of this nature tend to have issues within the State of New Mexico.
4. Mr. LeDoux stated the only party he has seen that gains power by the formation of this Committee is the Administration of the College.

Mr. LeDoux reminded the Board of Regents although bad things can happen with this Committee that may not happen under the Board of Regents. These decisions could affect the College over 100 years. Committees like this are often hard to appeal and Mr. LeDoux understands the purpose of this Committee is to increase input on critical issues related to the school.

Mr. LeDoux proposed the following alternatives:

1. Add Public Comment before the vote of each action item allowing interested parties to state their opinion to better be informed of the process. This also allows Regents to remember the voice of the people before their vote.
2. Allow remote testimony. Many students and interested parties may have difficulty getting to a Board of Regents Meeting and this will allow people to voice their opinion without actually having to attend the meeting.
3. Livestream and record the Regent Meetings on video. Santa Fe Community College already does this and it provides better transparency for the Board of Regents.

Regent Powers asked for a copy of Mr. LeDoux statement. Regent Garcia asked Mr. LeDoux to send the Board of Regents a copy of his statement.

XI. EXECUTIVE SESSION

Regent Powers moved to enter into Executive Session pursuant to

- (1) Limited personnel matters related to the hiring, promotion, demotion, dismissal, assignment, resignation, or investigation or consideration of complaints or charges against an employee;
- (2) Bargaining strategy preliminary to collective bargaining;
- (3) Threatened or pending litigation subject to the attorney-client privilege in which the College may be a participant; and
- (4) Real estate acquisition or disposal.

Pursuant to provisions of NMSA 1978, Section 10-15-1(H)(2)(5)(7)&(8)

A Roll Call vote was taken and all Regents voted unanimously to enter into Executive Session (Regent DeHerrera – yes, Regent Damian Martinez – yes, Regent Powers – yes, Regent Garcia – yes). President Barceló asked that the President's Executive Team join the Executive Session. The Board of Regents entered into Executive Session at 11:13AM.

XII. POSSIBLE ACTION ON EXECUTIVE SESSION

Regent Powers moved the Board of Regents return from Executive Session. No action was taken and only items identified prior to the Executive Session were discussed. Roll Call Vote was taken – Regent DeHerrera – yes, Regent Powers – yes, Regent Damian Martinez – yes, Regent Garcia – yes. The Board of Regents returned from Executive Session.

NORTHERN NEW MEXICO COLLEGE

BOARD OF REGENTS MEETING

FEBRUARY 26, 2015

I. CALL TO ORDER

A regular meeting of the Board of Regents of Northern New Mexico College was held on Thursday, February 26, 2015 in the Boardroom of Northern New Mexico College, Espanola Campus. Regents present: Rosario (Chayo) Garcia, Alfred Herrera, Kevin F. Powers and Michael Branch. Board President Rosario (Chayo) Garcia called the meeting to order at 8:36AM.

Northern New Mexico College staff present: President Nancy "Rusty" Barceló, Domingo Sanchez, Vice President for Finance and Administration; Ricky Serna, Vice President for Institutional Advancement; Pedro Martinez, Provost/Vice President for Academic Affairs; Bernie Padilla, Director of Human Resources; Chris Trujillo, IT; Alex Williams, Senior Financial Analyst; Carmella Sanchez, Director of Institutional Research, Sally Martinez, Executive Assistant to the Provost and Vice President for Academic Affairs; Jimi Montoya, IT Director; Stephanie Montoya, Staff Reporter/PR Specialist; Sally Martinez, Executive Assistant to the Provost and Vice President for Academic Affairs; Brandi Cordova, Executive Assistant to the Vice President for Finance and Administration; Ryan Cordova, Athletic Director and Men's Head Basketball Coach; Brooke Espinosa, Student Life ; Terry Mulert, Foundation Director; and Amy Pena, Recording Secretary. Northern New Mexico College faculty present: Dr. Ivan Lopez Hurtado, Dr. Joaquin Vila, and Vishal Meta. Others present: Annette Rodriguez and a representative from the Rio Grande Sun.

II. APPROVAL OF AGENDA

Regent Herrera moved for approval of Agenda as presented. Motion passed unanimously.

III. COMMENTS FROM THE BOARD

Regent Garcia read the following statement:

On January 27, 2015, I did ask Donald Martinez to resign as a Regent for Northern at Northern New Mexico College. I did this on my own. The Administration, staff or other Regents did not know of my actions, until Mr. Martinez left the meeting.

I asked him for his resignation when I found out of his recent emails exchange from a member of the College union organizer (who is no longer working with the College) and former, disgruntle employees of the College. The email included comments that Donald Martinez made about the integrity of another Board of Regent specifically Regent Branch. The correspondence showed his willingness to engage in inappropriate conversation with these individuals who have demonstrated a desire to damage the institution.

With this email, along with others that he had sent directly to his fellow Board Members comprised the integrity of his position. Other misconducts which include:

- His lack of attendance - less than 50%
- Sharing information with inappropriate parties
- Violation of sharing Confidential and Sensitive information
- Slandering fellow Board Members.

As the Board President, I believe that it was and is my responsibility to ensure that the Board's membership is working toward the best interests of the whole institution. I feel that I had every right to ask for his resignation due to his chronic absences. (And Mr. Martinez, I too have a full time job.) At this time, I asked him for his resignation and he assured me that I would receive it by the end of the hour, shook my hand and left before the meeting presided. With this I thought I had a man's word.

I know that Donald Martinez feels we hacked into his computer but, to the fact of the matter, we did not do so. He didn't realize that he had carbon copied Regent Branch and our Provost.

I did not want to take this public but, he has not left me any choice. I feel that Regent Branch has a right to set the record straight and voice his opinion on the email that was accidentally sent to him by Donald Martinez.

In closing, I would like to reiterate my position; my first responsibility is to the students, faculty and Board of Northern New Mexico University. It is to insure the quality of higher education to this Valley.

Regent Branch stated he had asked that comments from the Board be placed on the Agenda early. Regent Branch was hoping additional people would be present so they could see some written evidence of what is going on behind the scenes of the College and innuendos and information that is not only being presented through the news media itself with a one sided report because no response is given, especially issues regarding personnel, which the Board of Regents is prohibited from responding to.

Regent Branch stated this might be his last meeting and provided details of what happened and why the Academic and Student Affairs Committee was revived. The committee has existed and the prior Chair was Regent Wechsler-Martinez. When there was organizational change last year with the new President of the Board of Regents, she appointed two committee chairs, Regent Branch as Chair of the Academic and Student Affairs and Donald Martinez a member of that Committee and the Audit/Finance/Facilities Committee was Chaired by Regent Kevin Powers and Regent Herrera a member of the Committee. The reason Regent Branch gave the preface and reviewed it systematically is because people have responded, some former employees of the College that are supposedly educated people and educators as well who made some comments that is completely contrary to what over 1,900 institutions in this country are doing. Over 1,300 Colleges and Universities belong to the Association of Governing Boards (AGB). What the AGB does is assist the Colleges to organize themselves to be more effective in their meetings and what the Board of Regents is doing as far as their jobs as Trustees or Regents. Regent Branch stated being charged with Student Affairs and Academic Affairs Committee, Regent Branch ordered booklets from AGB (attached) which were compiled over a number of years from the various institutions and governance themselves. These booklets compiled best practices, samples for charters, etc.

Regent Branch stated when President Barcelo joined the University, discussion was held regarding what could be done within the College at that time to improve and go to a new level. A level of excellence. Regent Branch stated this is being achieved and it is evident by the number of professional people that have been brought in and some of the people who have left, have left of their own volition and others left because of various reasons that Regent Branch is not here to discuss. When Regent Branch looked at the Student Affairs Committee Charter that was already in effect, Regent Branch saw that it needed to be correlated more to the Charter that was already worked on by Regent Herrera, Ricky Serna and Regent Branch, it was worked on for a couple of years ago and it was then finalized last year.

Regent Branch stated if 1,900 institutions in the Country feel that Committee level on a Regent level is absolutely necessary, comments from three former educators at the College, regarding what the College is trying to do seem out of place.

Regent Branch stated the last meeting was held in January to come up with how the Committee would like to see those changes in the Charter. Regent Branch presented a list of meetings that the Committee has had, September 19th, October 20th, November 19th, January 16th and February 19th in which Regent Donald Martinez did not attend. After the final draft of the Charter was prepared it was sent to Dr. Martinez, Regent Donald Martinez and all Regents as well as the President. Regent Branch stated this went with an email from himself stating: "Attached is my proposed version for the final draft for the Charter on the above-referenced committee. Please provide any suggested changes/additions we should consider and finalize at the next Committee Meeting on the 16th of this month. I would like to have a final recommendation for approval at the Board Meeting on the 27th of this month." Regent Branch stated from this there is an email from Regent Donald Martinez from his email address to Cathy Baryhill, Paula Reid and Tim Crone sent on Friday, January 23rd at 1:24PM, subject: final draft of Academic and Student Affairs Committee. On January 24, 2015 at 3:53PM from tcrone@cybermesa.com to dduckdon@yahoo.com, cathybaryhill@hotmail.com, paulareidarts@yahoo.com subject: reference final draft of Academic and Student Affairs Committee date Saturday, January 24th, stating: "Donald, cuidado, mucho cuidado (careful, be very careful) has anyone other than the Board seen this proposal. Have you shown this to Jake (Regent Branch is assuming this is Jake Arnold who has appeared before the Board of Regents many times with Donald Martinez and others), he would certainly be willing to sign in and makes some pithy remarks. First note that the President's Report has been moved from near the end of the meeting to the beginning, right after Approval of the Agenda, big time major movida because this puts the new committee approval before student or public input. You could object to Approval of the Agenda suggesting that the President's Report be moved to after Student and Public Input. The Charter and the idea of the Committee are an unmitigated disaster. If approved, this would completely wipe out any semblance of shared governance and could actually jeopardize accreditation. This is completely micromanagement. Note that Branch has already appointed himself Chair." Regent Branch stated he just explained this was done with the consent of the Board of Regents a year before. Even though Regent Martinez had been on the Board of Regents and had been to many meetings, he was not even aware or intentionally stated that Regent Branch was not. Regent Branch continued with the email: "All activities of the entire College would be funneled through this Committee so it could function as a screen and the Committee would control what the Board gets to see, thus controlling the Board as well as everything else. This completely negates any action the faculty takes as it has to be approved by the Committee before it goes to the Board. The committee could potentially throw out anything proposed and substitute their own version! I could go on and on and even though I thought the megalomania of that beast could not produce any ideas more insane than others, he outdid himself once again. Is he trying to stall the appointment of the student regent so that he can stay on one more year? I noted in Rusty's letter to the College that she had decided that the new regular regent will replace Alfred. I don't think she gets to make that choice, so if you are in contact with the Governor's office you need to let Jay and her know what these people are trying to pull off. I think his appointing himself chair of the new Committee is as good an indication as any that he is going to try to stick around. I will call you tomorrow. There are a couple of other things I want to discuss."

Regent Branch stated he hopes everyone listened to the innuendos, what is behind this. This is the type of information that has been exchanged with the news media and underground through a blog, under a guise of private because if you repeat something and you change and you don't give your name all it does is have gossip occurring. To respond to this is impossible to do so. This is the type of thing that has been going on for a period of time. Regent Branch stated he is bringing this forward and he apologized for having to bring this out the way he is doing it to all the members present. Regent Branch believes it is time the general community and the public understand what has been going on is not hurting Regent Branch or any of the members of the Board of Regents; it hurts the students and the University right now. In spite of it, if you attend the Legislature, you will see the accolades the University is getting from the Senate.

Regent Branch continued on with the email string. On Saturday, January 24, 2015 at 5:37PM Cathy Berryhill who was a former Dean of the College of Education wrote: "Thanks Tim...I was made before but now I am really mad. Tim is right. This is just an attempt to totally control anything that goes on in the college. Squash it, Donald. Refuse. Stand on your chair and yell. This goes against everything we believe about everyone having a say in what goes on. No wonder we are in such a pickle." Regent Branch stated this was a Dean, this was a person that is talking about how open governance, you try to make people believe the Committee is trying to squash open governance when in effect what the Committee is trying to do is to expand on it to try to give everybody an opportunity to be heard.

Regent Branch continued on with the email string. On Sunday, January 25, 2015 at 3:07PM Paula Reid wrote: "OMG, I didn't catch that "Regent Branch" is chair of this committee. QUESTION: I assumed that as of the new year, our two replacements are new regents. NO? When will Melinda and Damian be sworn in to replace Branch and Herrera? This is as evil as I have seen - having even more influence via this committee. If the committee comes to be, will MB be able to worm in any other way on it if he is not a regent? Will this guy just never go away???? Another question of anyone. What is MB's agenda (financial interest) in Northern now? Tied in with Blue Sky/their brother Ryan and athletics/dorms? No committee."

Regent Branch stated this is slander. Regent Branch stated there is very respectable man sitting in the Board Room (Ryan Cordova) and he got involved in it. These innuendos going around hurt the University. Regent Branch stated he feels bad about having to bring this out, this is dirty laundry but this is an example of what has been occurring and occurring here at the University for the last year that has done nothing but harm. The community hears this stuff and it is a one sided attempt to bring bad information to this University when so many wonderful things are happening that are here.

Regent Branch stated he wanted to squash a couple of things. One, it says Regent Branch is making an attempt to stay on the Board of Regents. Regent Branch stated he has no control over being a member or not being a member. Regent Branch stated his term expired December 31, 2014 and he will continue until such time as the Governor nominates someone, it goes to the Senate Finance Rules Committee, they hear it and if they make a recommendation it goes before the full Senate. The Senate will make a vote as to whether a Regent will be appointed. Once the Governor nominates, the Governor has absolutely nothing to do with any of these Regents in particular. The Governor does have control through finance and so on through Higher Education Department (HED). Even HED does not tell them what to do. The Constitution was intentionally written that way in order to give the independence to the Colleges and Universities. Damian Martinez has gone down to the Committee.

Regent Branch stated there was also a question as to whether the President preferred Regent Branch to replace the student. This is not determined by this College, it comes down from the Selection Committee from the Governor's Office in particular, whether Regent Herrera or Regent Branch replaces the student, this comes from this particular area. Regent Branch stated there is the insinuation that he has any influence, if anything; he has no influence over this Administration. Regent Branch stated he gets calls from Faculty and Students about things going on and he was told there was an effort with some petition to have Regent Branch removed and the student be placed in his place. Regent Branch stated first of all this was ignorance because that is not the procedure; it cannot be done this way. Regent Branch stated regarding this anxiety about removing him from the Board of Regents, he may have made a few enemies over a period of time,

that was their choice, on the other hand he can say in good conscience he has done his job at the University.

Regent Branch stated regarding the last response on the email from Regent Martinez regarding an email sent to Dr. Martinez. What occurred is when he responded with his recommended changes to the Committee his entire email daisy chained and attached to it. All that information that went back and forth was made public. That only reason the Board of Regents found out what was going on. There has been some innuendo that the College hacked his account. Regent Branch stated he does not know anyone that can do that. Regent Branch stated it came from his personal email (Branch Realty) and then Regent Martinez sent his out to the individuals. The only copy that ever came back was the response back to Dr. Martinez and Regent Branch. Regent Branch read the response from Dr. Martinez. "It is getting real shady Paula. The new Regents won't come into play until March and even April." "MB is trying to delay the Student Regent so that he may stay another year. It is clear; you bet a financial interest is a major aspect of him staying. I will get outvoted tomorrow, that's a given. I tried to make the last Committee Meeting when being drafted. I had no part in it. As I was invited to participate, they get me every time since they know I work for a living. It has been that way since they got wind of my hectic schedule. Don't know what else to do." Regent Branch stated for every Committee Meeting (5) that Regent Martinez was invited to, he specifically asked staff, because of Regent Martinez' work schedule if there was a difficulty there to contact him and ask him what is convenient for him. Regent Branch and Dr. Martinez would accommodate him and Regent Martinez never attended one meeting. Yet Regent Martinez is stating the Board of Regents have done the same thing. Meetings were scheduled at the reorganization of the Board of Regents; the new President asked what should be done for the monthly meetings. Traditionally, the Board of Regents met on Thursday mornings at 8:00AM and Regent Martinez stated it was difficult for him and asked that they be changed to 1:00PM. The meetings were changed and he did not attend, including the meeting in El Rito where he lives. This statement of Regent Martinez is an outright lie that the Board of Regents was intentionally trying to prevent him from attending meetings. He did not attend meetings. Regent Branch stated he has been on the Board of Regents 12 years and has missed 2 meetings. One time he was out of the country and the other time he was in Houston, Texas at MD Anderson Cancer Center. Regent Branch stated he also works for a living. Regent Branch stated if you accept the responsibility you come and do your job. Regent Branch stated he does not believe Regent Martinez has accepted his responsibility and from the comments Regent Martinez made, Regent Branch wants the Board of Regents to understand what he said and Regent Branch wants this to be made part of the record for anyone to see and comment on and available for future reference. Regent Branch stated he hopes that the information the Governor is getting will make some difference.

Regent Branch stated as far as him continuing on as a member. The reality of the situation is Student Senate made a recommendation to the President; this is the procedure as to who would be the new Student Regent. The President consulted her Executive Staff and they decided on the person that was recommended. It went to the Governor's Office and the Governor reviews it and then it goes on to Senate Rules. It has not gone to Senate Rules Committee. Regent Branch stated his fear because it is so late in the year, now it gets in line with all the commitments around the State, every Board and Commission, if it doesn't get heard, that means there is a vacancy from now until next year. Regent Branch stated he has decided the following: If the Governor sends that name down and the Committee does not hear that, Regent Branch will resign at that time to permit the Governor to appoint that student on to be a Regent and then let it get confirmed next year. If she does not do that, to leave it vacant for a year, by Regent Branch just resigning, nobody else can be appointed, he will not do it. In that event, Regent Branch will stay. Regent Branch stated he does not want to be reappointed and it is time for him to move on. These circumstances are beyond

his control of what is happening. Regent Branch stated that he hopes if this word gets to the Governor she will understand that if the appointment is not made it is her responsibility to fill that position. Regent Branch does not want the Governor to feel as though if it doesn't get heard by the Committee her appointee will not go forward because Regent Branch will comply with her decision.

Regent Branch stated this is hard to bring forward and there has been a lot of cooperation and understanding and some differences of opinion but it has always been done with a certain amount of respect and understanding for individuals that are here. Regent Branch state he has nothing but the utmost respect for all the individuals that are on the Board of Regents. Regent Branch stated it pains him to come forward and say all this. Regent Branch did not initiate this; he hope people understand the other side of the story. The other side of the story is not heard and he is sorry Annette Rodriguez was not present to hear him speak and he knows she will have comments as to what he might have or had not said. This is going to be on the record and they can pick and do whatever they want. This is the truth. The truth sometimes turns out to be not the truth but what is said and what is said once it has repeated itself more than once, you know how it changes. Regent Branch apologized for taking so much time but he believed he needed to explain this. Regent Branch stated he would like any of the Regents to ask him if they have questions about any of this to come forth. Regent Branch stated he is open to provide any information he might have but on the other hand lies and innuendos do nothing, they go back to the origin of who said them and when they are exaggerated and are downright lies, and there were some downright lies that occurred this week, people need to understand that sometimes a response is necessary.

Regent Herrera stated today is a heavy and sad day for Regent Herrera that this kind of information needs to be aired out. At the same time, in the spirit of this University moving forward and the record being set straight, Regent Herrera needs to applaud both of his colleagues and support both of his colleagues for the exchange of information that has come forth. When appointed to the Board, Regent Herrera stated that all of the Regents and up to this point most of the Regents have taken this responsibility seriously. Yet, to serve for a six year period is hard, hard on family, hard on commitments to jobs to day to day lives but at the end of the day the Regents do it because they care about the community and the students. The Regents care about providing a good quality education for the students. Regent Herrera stated he is appalled over the exchange of emails and the exchange of information. As Regents and certainly as staff members of this University, we need to be held to a higher standard and a level professionalism needs to preside over this University. At the same time, the only way to move forward from this nonsense is to do exactly what was done today.

IV. PRESIDENT'S REPORT AND ANNOUNCEMENTS

President Barcelo asked Ryan Cordova, Athletic Director and Men's Head Basketball Coach to come forward. Mr. Cordova stated he would like to take the opportunity to thank the Board of Regents for supporting the programs at the College, including Athletics. The College will be hosting the AII Conference Championships with 8 teams participating. Mr. Cordova thanked the Board of Regents for giving him the privilege of hosting this event. It was a proposal process and the College was selected over two other institutions to host this event. The community has stepped up, they have helped raise money for the event and they have assisted in putting a banquet together. Mr. Cordova invited the Board of Regents to attend the Banquet for the event. Mr. Cordova stated the College beat the number one team in the country and it continues to get headlines around the country. The College received votes for the top 25 in the country and this was

the first time ever for the institution. It says a lot about the steps taken in the last five years and the bold move the Regents made 8 years ago in adding athletics and continuing to move forward.

Mr. Cordova thanked Regent Branch and Regent Herrera personally for their leadership, professionalism and moral support of the Athletic programs. Regent Branch's and Regent Herrera's resumes precede them and Mr. Cordova commended both Regents on the leadership they continue to provide the institution. Mr. Cordova thanked them for their leadership in this community and the way they continue to stand up for the faculty, staff and students. Regent Branch thanked Mr. Cordova for his kind words.

President Barcelo stated what Athletics is doing is moving to a level of excellence and President Barcelo knows the Board of Regents has been encouraging the University to pursue. President Barcelo thanked the Board of Regents and stated it was a pleasure to pick up the paper and see the University at the top. It was reassuring that the University has made progress in spite of any challenges before it.

President Barcelo stated the University hosted 100 high school students in the STEM field. Dr. Bennet, a Biologist who has done phenomenal work and international work was the keynote speaker. To see faculty and staff supporting this endeavor was reassuring. What was most rewarding was to go by and hear the young students talk about their projects with pride, knowledge and confidence and they will be great future Northern students. This was an example of where Dr. Maria Suarez brought together a broad group of people throughout the campus to make this a possibility. Ricky Serna, Vice President for Institutional Advancement stated it was 150 middle and high school students. There was participation from employers and agencies in the region and of course from all the various departments at the University. The goal was to encourage minorities and women to declare majors, earn degrees in the STEM fields. It was a great success.

President Barcelo stated the University had the dedication of the Arturo Madrid library collection. He donated over 650 books focusing on the Chicano/a experience within the context of multiple disciplines. The event was packed and it was a beautiful room that the facilities staffs under the direction of Domingo Sanchez, Vice President for Finance and Administration have prepared with huge lettering saying "Dr. Arturo Madrid Collection." It was wonderful with the words that were spoken, the number of individuals that came together, the Provost provided some stellar remarks and this is the beginning of something special. President Barcelo stated she is probably leaving her books at the University as well. This speaks to the excellence the University is pursuing because what is going to happen with this collection is the students are going to be able to benefit as well as faculty and staff and what the collection does is depicts 40 years of higher education and the work Dr. Madrid has done in the area of Chicano/a studies. Again, the University is making progress in spite any potholes in the road and will continue to do so. President Barcelo thanked the faculty and staff who continue to work hard in spite of the challenges before them. The University is making progress and nobody can take it away.

V. APPROVAL OF MINUTES

Regent Garcia asked for one change in the minutes. Regent Garcia stated where the Regents present, Donald Martinez' name needs to be excluded as he did not attend the meeting.

MB moved for approval of Minutes as amended. Motion passed unanimously.

VI. INTRODUCTIONS

President Barcelo introduced Terry Mulert, Foundation Director, start date 02/16/15. President Barcelo asked that Mr. Serna introduce Mr. Mulert. Mr. Serna stated Mr. Mulert spend 25 years with the institution up until a couple of years ago to be the Director of Advancement for the New Mexico Community Foundation in Santa Fe. Terry has served as an adjunct faculty member in the Humanities Department and as the coordinator for the Summer Bridge Program and First Years' Experience Program. He is extremely familiar with the institution and in the two years he was gone, he became familiar with fundraising. Mr. Mulert started two weeks ago and has hit the ground running primarily because he is familiar with the institution. The Foundation Board participated in his final hire and are excited to see him on board. Mr. Mulert is excited to work for the University. Mr. Mulert is at the University to work hard to build relationships and cultivate new relationships. He would also like to speak with the Board of Regents members who would like to get more involved in the Foundation.

VI. PUBLIC INPUT

None.

VII. STUDENT SENATE PRESIDENT'S REPORT

Mr. Serna asked that this report be moved to the end of the meeting because the Student Senate President is in class.

Ariadni Bito, Student Senate President, Ted Koetter, Vice President, Ansha Rodriguez, Secretary, Briana Ellis, Treasurer were all present for the Student Senate Report. Student Senate stated for midterm week, lunch will be served and the Student Senate will be getting summer glasses. There will be three movies in the next three months. The Student Senate is looking at planning a bonfire and barbecue for finals week.

Ariadni Bito stated Student Senate would like to see a fiscal survey regarding tuition. President Barcelo asked if the students are talking about a tuition increase. Ms. Bito stated they would like to see a fiscal review or fiscal analysis saying they are going down now and need change. Mr. Koetter stated the University should find the optimal rate at which the University has the most revenue from tuition. As far as he knows this has not been done yet so there shouldn't be a change in tuition until the students know what the optimal rate of tuition. Regent Garcia stated she is sorry the students missed Mr. Serna's presentation as there is not going to be a tuition rate increase. It is putting the fees and tuition together so it will actually be a decrease.

Mr. Koetter stated there are rumors going around that tuition is going up and Student Senate would like to say they don't want this to happen. Regent Garcia stated she does not believe this should happen either. Regent Branch stated before this is said, the University needs to get the Finance Department closer with the Student Senate so they understand the costs involved. This is one of the reasons the tuition adjustment was not done today so the University could get the budget together and the students could see where the money is being spent. The University has not done a good enough job for the students letting them know what is going on. The students catch it at the end of the year, the raise of tuition and there are reasons behind it and the students should participate in the process. This is why the University started the Academic and Student Affairs Committee, so that some of these issues can come directly through there and students can see them from the very beginning before they acted on. Participatory governance is what it is all about. Regent Branch

thanked Student Senate for doing this and this is something the University has needed for a long time, student involvement. The Board of Regents is here to do to their job for the students and there is a lot of disconnect a lot of times, they don't understand, they think they are working against them or doing things. This is part of the process. The Student Affairs Committee needs more participation from Student Senate to sit in and understand what is coming forward and how it projects back to the various components of the University, especially the budget.

Regent Garcia suggested Student Senate meet with Mr. Serna to explain this information. Mr. Koetter stated they have met with Mr. Serna and the next thing the Student Senate wants to do is voice their opinion on Mr. Serna's presentation. Mr. Koetter asked if the four scenarios were presented to the Board of Regents. Regent Garcia stated he has. Mr. Koetter stated the Student Senate supports the fourth scenario, a single rate tuition with fees. The Student Senate has an additional suggestion, it should only apply to new students, and it should be tested first. By doing it to new students, the University will not alienate existing students. There might be fewer new students but it does not have as much of an impact on the University as saying existing returning students leave. That has a much more immediate and harmful impact on the University. Ms. Bito stated it will impact the statistics that give the University funding. Mr. Koetter stated if current students leave before they graduate.

Regent Herrera thanked the Student Senate for the work they are doing and would encourage the Student Senate to continue to do work through the Student Senate Organization. All it is going to do is help out the University tremendously. The Board of Regents is here to help the students to make their college career what it needs to be and hopefully get the quality education students want, need and deserve.

Regent Herrera stated he has been on the Board of Regents for six years and in those six years he has participated in the Finance Committee and one of the things the University has done and spent a lot of time doing is cutting expenditures. There was discussion concerning this and Regent Herrera does not believe the University can cut anymore. There will be a little more tweaking done but the fact is the emphasis needs to be more, and this is where everyone could help, to hone in and work hard at growing that revenue. This does not mean a tuition increase; it actually means increasing student enrollment. If you increase student enrollment, the expenditures are going to be the same, growing the revenue needs to be paramount for this University. Anything that can be brought in by way of students will grow the revenue. There is more of a chance in the future of contemplating any sort of tuition increase.

Regent Branch stated he believes the trend of the last few years is that it costs more at the University per student than any other University in the State because of the low number of students. It is great to say there are 8 students in a particular class, they get more attention. However, what it means if you only have 7, maybe you do not make the class. On the other hand, if there were 12, that means there is the revenue to do additional things for the students that the University could not have. You would have the same instructor, the same overhead. There is a breaking point when you have too many when the costs would go up. The University is in the position right now to absorb a large number of students with the infrastructure and faculty there is currently and that would not change any additional costs. This means, in turn, there is more money to spend for students. This is what the University hopes it can do right now. Regent Branch asked the students how they feel about going to University status.

Mr. Koetter stated at surface it is a great idea. The institution has been in New Mexico for a very long time and it has grown throughout the years. This is wonderful the University is moving up in the world but Mr. Koetter stated he does not know about the timing of the decision. He does not know that there was much thought into how much money will be spent to rebrand everything in the College. Regent Garcia stated this was considered and it will take a while.

Ms. Bito stated she has been in constant communication with Think New Mexico and they are getting Colleges Student Senates to support their resolution because they are trying to reduce the Lottery Scholarship by 30%. The meeting is today and at the first meeting it passed 8 to 1. The Student Senate feels like it has not done their best job to oppose that. This will impact a lot of students that have Lottery at the University. Student Senate will need help for this.

Regent Garcia stated the Lottery has sustained getting revenues and the cost of tuition through the State has been climbing. There is a gap between there so right now the next two years what they are paying is through the alcohol taxation and that is what they are trying to keep up with the demand. This is the problem. Mr. Koetter stated the bill is to actually reduce the amount of funding that the Lottery pays to the Lottery Scholarship. Regent Garcia stated it is staying the same. Mr. Serna stated this bill has been discussed at length.

Mr. Serna stated there is another piece of Legislation that might be of higher interest to Student Senate because Mr. Serna believes the one for the Lottery Scholarship will be fixed. The one that is of most concern and it doesn't have a large impact for students at Northern but it does across the State. Legislation that would make the Lottery Scholarship need based. What they have done is identify households that have less than \$70,000. Those students would be eligible. What is troubling about it is it is being sponsored by the Godfather of the Lottery, Senator Michael Sanchez. This might be a piece of legislation Student Senate should follow. It does not have a big impact at Northern because only 11% of the students are on the Lottery. Overall, only 8% of students have a household income of greater than \$70,000. The University would be joining a fight with other Universities in the State to repeal that language.

Regent Branch stated when Mr. Serna mentioned Senator Michael Sanchez, he is the father and the mother and the dictator that handles the Lottery. It comes from a lot of different directions and there is legislation. He makes the decision and they follow his lead pretty strongly. If you are going to focus in one area to be effective, he is the person to focus on. Regent Garcia suggested Student Senate set up an appointment to talk to Senator Sanchez.

VIII. FACULTY REPORT

None.

IX. STAFF REPORTS

A. Provost and Vice President Report

1. AQIP Report and other Academic Initiatives

Dr. Pedro Martinez, Provost and Vice President for Academic Affairs stated there are two items to present.

1. AQIP - This is the accreditation process and what validates quality of faculty, type of instruction and experiences the University gives to students and the fact that during the past six months there has been a great response from faculty, staff, departments and deans and the University continues to progress. Dr. Martinez introduced Carmella Sanchez, Director of Institutional Research. Ms. Sanchez presented the AQIP Update to the Board of Regents (attached).
2. Discussion of Bachelor in Electromechanical Engineering Technology - Dr. Martinez introduced Dr. Ivan Lopez, Dean of College of Engineering and Technology. Dr. Lopez presented the Board of Regents with highlights of the Bachelor in Electromechanical Engineering Technology (attached). Dr. Lopez stated what the University is trying to do is to substitute the current Mechanical Engineering program with this new program for a couple of reasons. Historically, the University has not been able because of budget constraints to get enough faculty with a background in Mechanical Engineering. To present a strong case with the accreditation agency, the University needs to show at least three faculty members. When counting the number of courses in the field, you cannot have students taking classes with one or two faculty members. This program is not really the traditional Mechanical Engineering program because by design it has an element of solar energy. This was a program approved by the Board of Regents 7 or 8 years ago and the focus was to have this important element, this concentration in solar energy. At the end of the day, the curriculum was based not just in mechanical engineering courses but in Electrical Engineering courses. Two years ago, the University discussed changing renaming the program so the students know they are not getting a Mechanical Engineering but they are also getting a lot of background in Electrical Engineering. This is one reason to call it what it should be called from the beginning. The second reason is by changing the name now is that some of the full time faculty members with the IT program can also serve as faculty for this new program. By coming with this new name, the University can say it has 4 to 5 full time faculty members associated with the program. While preparing the curriculum the opportunity was discussed to address the main issues that Mechanical Engineering has been facing besides the lack of faculty members. One of the main problems of this program has been retention. The way the program was created it has a sequence of math courses (Calculus I, II and II) and then the students can go and take the Engineering classes. By then the students are gone because students are coming at the level of Math 100 so it is a couple of years before they go to Calculus. It then takes a couple of years to finish Calculus to finally see what Engineering is about. The University was losing many students, from 29 full time students, the University is now 17 in the program and there are two reasons: (1) it is a hard program; and (2) the program is not accredited. The students are comparing these programs with IT and saying why do the Mechanical when it is not accredited and they go to IT or they go to another University that offers a Mechanical Engineering program that is accredited. The University decided to address those issues. Dr. Lopez stated many of the students with a high GPA have left because the program is not accredited.

Dr. Lopez stated with this new program by design it is adding 15 credits of electives which allow easier transfers. This program will allow under prepared students to follow the Math sequence in parallel to the Engineering courses instead of a sequential route. This will help with retention. The word "technology" means a lot for the accreditation agency. Traditionally in the US there are two types of Engineering. The Theoretical Engineering (UNM, NM Tech and NMSU) and the Engineering Technology which is a hands-on and students are prepared for the job and it will introduce industrial certifications for the program. This will be a way to get the stackable credentials. This will be a unique

program in the state. In terms of jobs Dr. Lopez presented the number of postings across the US by engineering job titles (attached). The University is addressing the programs with the highest needs in the country.

Regent Garcia stated this is wonderful and exciting and because it is a unique program and what the Governor is hoping is that the University will not duplicate any other Colleges programs.

Regent Herrera stated he likes all the work being done in the Engineering Department. It points to the fact that people need to think outside the box. Just by the fact this program is unique, the department is rethinking how this is presented and it is positive. Regent Herrera stated this is going to change the dynamics of this program and asked how this is going to be conveyed from a marketing standpoint to potential students because it is a big deal. Dr. Lopez stated that work has already begun with some of the Community Colleges, preparing the transfer matrix because the University wants to go and start discussing the students who are pursuing an Associate Degree in the other institutions to tell them there is not going to be any other University that is going to accept as many credits from your program as in our case. If the students come to the University they will save the first two years of the Engineering Program using their Associate Degree. The University needs to make sure there are the partnerships out there so everyone knows about the new program. This is one of the strategies. At this point in the process, the University cannot advertise more because it is prohibited by the Higher Learning Commission (HLC) until this is approved. The University cannot prepare marketing material. If this gets approved at this level and then HED and HLC by the summer the University can then start moving aggressively to inform students about this opportunity.

Dr. Lopez stated the other piece that is attractive for the students through brochures and marketing tools is that Industrial Certifications will be attached to the program. This is the main attraction right now in the IT program. One of the very few programs that have not dropped in enrollment is the IT program. This is because of the Industrial Certifications. This issue of stackable credentials is a plus. Another point that is important is that the Solar Energy program is not going away. The solar elements of the original engineering design are still in place. Partnership is going to help in recruitment in this area.

Regent Branch asked for a point of clarification regarding the Mechanical Engineering Program as it is accredited through both HED and through North Central for the HLC. Dr. Lopez stated currently the University is speaking to students in Mechanical Engineering and encouraging them that if this is approved to change to this new program. All credits they have in Mechanical Engineering will be transferred and the University is promising them the University is going for accreditation in three years and because the accreditation is retroactive they will be covered in the new program. Dr. Lopez hopes the students will move and if this approved by HLC, Dr. Lopez will present the termination of the Mechanical Engineering Program as there is no sense to keep a program that is not accredited. It is very important for Mechanical Engineering students to be ABET accredited.

President Barcelo stated what this programs reflects is what she has asked the Provost to do, work with the Deans in terms of stackable programs in all of the disciplines because there will be greater outcomes for the very reasons Dr. Lopez shared with the group. This is part of a bigger mission of the University towards excellence.

Regent Garcia asked when Dr. Lopez would present to HED. Dr. Lopez stated once this approved it will be done immediately.

The Board of Regents recessed at 9:40AM and was called back to order at 9:50AM.

B. Vice President for Finance & Administration

1. Approval of Fiscal Watch

Domingo Sanchez, Vice President for Finance and Administration presented the Fiscal Watch Reports to the Board of Regents (attached). There is approximately \$413,000 in cash at the end of the month. The Unrestricted Fund balance began at -\$1.7M and the University is now at \$900,000 at the end of January. This will go down and will continue to go down. The University will make up a fair amount of the hole the University was in. The University will still be in the negative at the end of the year but will make up a big chunk of it.

Mr. Sanchez reviewed the Summary of Operating and Plant Funds (page 89 attached). This format was adopted from a request from Regent Herrera who asked that the format show BARs year to day. The current year to date budget which reflects all BARs that have run through the system and were approved by the Board of Regents is at approximately \$30M, expenditures are at \$15.8M. In terms of expenditures, the University had budgeted \$29.7M and there is \$13.1 expended. The ending fund balance for all funds is \$616,000. With regard to Plant Funds and BR&R, the University spent \$175,000, expenditures are at \$241,000 but fund balance is at \$305,000. The University has not really started spending in here. The University has received all the approvals now from Board of Finance and HED and the University is going forward for the approvals for the bond referendum that was voted in November. Mr. Sanchez is already working on the estimates so it can be taken to HED in April so the University can get approval from the Board of Finance in April or May and the infrastructure will start being spent.

Mr. Sanchez reviewed the Statement of Revenues, Expenditures, and Other Charges for the period ending January 31, 2015 (pages 90 and 91). These reports are the 11 Funds or unrestricted. These are the funds that have to carry the ones that don't make money or are not managed properly. The University is at \$10.6M for the year and last year the University was at \$11M. Last year the University had expenditures of almost \$8.2M and now it is down to \$7.9M. Transfers are down by about \$300,000. This is because the University has really tightened down the oversight of the auxiliaries. Last year the net change in assets was \$1.9M and this year it is at \$2.2M. Ending fund balance for the 11 Funds is \$375,163.57 where prior year was \$945,989.49.

Mr. Sanchez reviewed the auxiliaries (page 91). Last year there was revenue of \$893,000 this year the University is at \$830,000. Expenditures were at \$1.1M last year and this year they are at \$963,000. Last year at this time the University, in auxiliaries, was at -\$41,000 and this year the University is at \$66,000. This doesn't mean they are as tight as Mr. Sanchez would like them to be but they are better.

Regent Herrera stated on Page 91 and several years back, the University was extremely concerned about this particular aspect of the operation. Last year the University had a -\$282,000 and now it is \$218,000 positive and this is a really big deal in terms of what the University was doing responsibly. The ship has been turned around.

Regent Powers moved for approval of the Fiscal Watch Report as presented. Motion passed unanimously.

2. Approval of Budget Adjustment Requests (BARs)

Mr. Sanchez presented the BARs (attached) to the Board of Regents. Year to date, as of the end of January, the University is at 312 BARs for the year. There are 25 BARs that need approval, 10 are transfers in the unrestricted funds, 8 are increases in the unrestricted funds, and 2 are in the restricted funds that are transfers or that are increases and 1 that is a decrease. The decrease is the reduction in the HEP by \$44,000 to align with the money the University has. The University does have a big Grant \$400,000 for the American Indian Education Program which is an important acquisition of this money.

Regent Powers moved for approval of BARs as presented. Motion passed unanimously.

3. Capital Projects Update

Mr. Sanchez stated the University is in the process of getting estimates and should be starting next month with some minor construction on the Administration Building. Part of the approvals the University is asking for from HED and the Board of Finance is for the heating and cooling so the money can be finished off for the building.

Regent Branch asked of the money that is being approved, if the Board of Regents will get an indication of the plan in spending the money. Regent Branch would like to see this and some of the members would like to be advised rather than coming in and seeing the construction going on. Mr. Sanchez stated this can be done at the next Board of Regents meeting. Mr. Sanchez stated the University has a five year plan and this is what drives it. Every August the University has to go before the HED Capital Outlay and make presentations. The University does have a lot of detail behind the dollar amount that is being asked. These projects can be shared with the Board of Regents. Regent Garcia would also like this presentation.

4. Disposition of College Property

Mr. Sanchez presented the Board of Regents photos for disposal and a letter to General Services for the disposal of assets (attached). Mr. Sanchez stated these are the items the University would like to dispose of. Regent Branch asked if any of this has ever been presented to the Student Organizations where they might be able to raise funds from these items. There might be some items that could assist them in raising money. This could be presented as an opportunity for them to choose items to sell. Regent Garcia suggested some of these items be given to Habitat for Humanity for sale.

Mr. Serna stated the Council of University Presidents (CUP) is supporting legislation to make changes to the disposal of property laws because basically anything of any value needs to come to the Board of Regents. They are working to put limitations on this so everything less than \$100 does not have to come to the Board of Regents so the institution can move forward to dispose of the assets.

Regent Powers moved for approval of the Disposition of Property as presented. Motion passed unanimously.

C. Vice President for Advancement

1. Presentation of Single Rate Tuition Structure

Ricky Serna, Vice President for Institutional Advancement stated he would be presenting the Single Rate Tuition Model Proposal Highlights (attached). Regent Garcia stated last week Regent Powers and Regent Garcia had a meeting with the Governor and other Regents and it sounded like a lot of the Regents were going to this model. Regent Powers stated he believes there is a movement statewide to go to a model that sets a level of tuition when a student enters the institution and there is some ability to guarantee that that tuition rate would stay the same for a period of time assuming the student continues to make progress towards a degree and maintains a certain GPA. Regent Powers stated there is one institution that has a program set up like this. It seems like everybody is considering some form of this. In terms of the single rate, Regent Powers stated he had not heard anyone that had really settled in on something like this. There was certainly a lot of discussion about tuition and the level of tuition relative to current levels and the stress that is on all the institutions statewide because of the state funding formula. Regent Powers believes it is in the early stages of tuition discussion and this is good information to see at this point in time.

Mr. Serna stated he had a conversation with President Fries with New Mexico Highland's University. He asked Mr. Serna if he felt the model would be adopted. Mr. Serna stated he was not sure of course, because it was all subject to regent approval. His comments to Mr. Serna were if the University does it, the rest will do it; it just makes a lot of sense.

Mr. Serna stated the single rate tuition model is pretty simple. It is combining the tuition and general fees to offer students a single rate per credit hour. This rate will not include course specific fees. Essentially what the University is doing is taking the total cost of attendance for a student \$2,030 (diagram attached). If you divide this by 12 you will get \$170.00 so this is how many credit hours a student has to take in order to be considered full time. If you take your general fees plus tuition and divide it by 12 credit hours you will get \$170.00. This will take care of all tuition and fees but it does not include all the course specific fees. The institution generates \$277,000 a year in course specific fees on top of general fees and tuition. The University has been presenting this and more than 70 students have had a presentation about the model and the University has surveyed them and they support the model. They like the simplicity and they feel it helps them to better understand how much it is going to cost them to attend, etc. It has also been presented to the Student Senate and the President of the Senate will be able to talk about their support of the model. It has also been presented to the President's Advisory Group and there was really good feedback from them. The cons of this is at a glance it could suggest a tuition increase and that is how some people have already tried to propose this model, those who want a reason to say something bad about what the University is doing. They are going to say the University is raising tuition but it is not an increase it is a simple math problem. Another con is students will not understand where it is going. One of the recommendations is the University can still show them the distribution of funding. The pros are it reduces confusion on the student bills. Sample bills were pulled for students who are taking 3, 6, 9 and 15 hours and these bills have at least 13 different charges on them for each of the different fees. Another pro is it simplifies the process for determining the cost of attendance. If you want to understand how much it costs, you basically just have to use that number and multiply it by the number of credit hours.

Mr. Serna stated in all of the presentations given, the University has received some recommendations. Coming specifically from the President's Advisory Group is increase the rate so there are no more fees at all, including course specific, registration or transcript fees. The University has done work and research on this and as stated earlier the University does generate \$277,000 a year in fees. If you take this and divide it by two and divide it by the number of hours generated it is approximately \$10.00. If you were to go from \$170.00 to \$180.00 you would be able to generate the \$277,000 and it would still be cheaper for students.

Mr. Serna stated the next recommendation was to show students on the bill somewhere the distribution of the fees. This can be done because Mr. Serna and Mr. Sanchez have met and the commitment is that the University wants to always be able to isolate the tuition and fees behind the accounting of tuition and fees. That is for two reasons: (1) to know what tuition and fees are generating; and (2) so students could be shown where it is going. Some people ask the question of what happens if this does not work. If the University sees that this does not work and there is overwhelming distaste for this, it can just go back to the way it was. Lastly, given one of the major cons is the University would have to market simplicity. Some people will purposefully say the tuition is going up. The truth is the University is simplifying tuition and fees and making it easier for students to understand how they are being charged. The University would execute a campaign because what it would be selling is the simplicity by which fees and tuition is rolled up into a single number which helps students identify the costs of attending.

Mr. Serna stated one of the questions by the Board of Regents is if this has been done before, where it is happening, is it working? Mr. Serna stated something similar happened in Kentucky in 2001. Western Kentucky University said they should do this; this is what needs to be done. They said they were going into a single rate model and it has been working for them. Two months later, Louisville wanted to do the same thing. Sometime after that, Oakland University in Chicago did the same thing. The only fees they charge on top of their single rate are for meal plans and parking. They also have a differential rate. They have three different single rates, one for 100 and 200 levels, one for 300 and 400 level and one for graduate work. These are all public four year institutions. Last year, Texas A&M University went into a single rate model as well. They have a single rate depending on the student's major. The variance between the rates is approximately \$20.00 and they are compensating for the increased cost of lab equipment for the sciences. They were getting a lot of heat about the cost of attendance and their fees because they are the most unaffordable institution in the US. Their goal was not to make it more affordable it was to simplify it and capitalize on that to offset some of the publicity for being one of the most expensive four year institutions in the nation. Ohio State University is also going into a single rate and their model is yet to be released. They are doing a single rate model for students who live on campus. It will include meal plans and room along with tuition and fees. Ohio State is going to guarantee that single rate for four years.

Regent Powers asked why Mr. Serna chose 12 credit hours as the number to aim at when it is at 15 for the Lottery Scholarship qualification per semester. Mr. Serna stated currently a student becomes full time at 12 credit hours and at that point they are not charged for additional hours until they exceed 18. The current practice of the University and that of every other public institution in the State, they will not charge students for the 13th through 18th credit hour. One of the motivators behind doing this is to encourage students to go full time. The cost for credit hour shrinks once you get into 15 credit hours and above. At the 19th hour most institutions will say the student is an overload and will charge for the additional hours. It is a common practice. Regent Powers stated NMSU put in a program where they charge more for a lower number of hours and less for a higher number to try to encourage the move through the system faster to mirror the new funding formula

rewards. Mr. Serna stated this is correct. Mr. Serna stated what the University would like to see consistently is it is more affordable as students take more hours. The University would be able to say the more you take, the more affordable it is per credit hour.

Regent Herrera applauded Mr. Serna's efforts to look at making all the fees inclusive as it does make sense. Regent Herrera was curious about the distribution of the tuition. Obviously as the dollars are being distributed, Regent Herrera asked if the dollars that are being distributed or peeled away from the tuition and fees are going to be restricted dollars, are they revenue or expenditure. Mr. Serna stated right now they contribute to the overall general fund and overall budget. Mr. Serna reminded the Board of Regents that the University generates \$3M a year in tuition and fees. This is only 10% of the operational budget. This is a small amount of the budget although it is meaningful and it is important because it is one of the very few because it can be raised up and down at the pleasure of the Board of Regents. The fees and the tuition will continue to be separated and isolated in the accounting of what is generating tuition and what is generating fees. It will continue to be used in the general fund to appropriate budget for each of those line items (IT, Instruction, Activity Fee, etc.). The University will continue to isolate them to provide budget for those different areas that fees are being charged for.

President Barcelo asked Mr. Serna to clarify for the Board of Regents as to how the Nursing fees would fit into this. Mr. Serna stated they would fit in just like all the other fees. When looking at the \$277,000 of course specific fees, they are all in there. When looking at them, they become rolled into that. The burden for them even becomes less because some of them are paying a lot more but then it is distributed out over time and over credit hours. This way the students who are paying a tremendous amount of fees now for them it is most beneficial. This discussion was held with the Nursing Department.

Regent Powers stated he believes the intent of this program is clearly not to generate more revenue; it is clearly more of a marketing intent. That is to simplify things for people to get a quick handle of what it is going to cost them if they want to come to the University and become a full time student. Mr. Serna stated the impetus is really student concerns. There are three in particular: (1) I don't understand what we are being billed for; (2) the administrative nightmare that sometimes causes errors in administering the fees; and (3) I want to know how much it is going to cost my student to go there. This would help a parent say they want to come to the University, they have this dollar amount and this is how much it is going to cost with no surprises. The students want to be able to anticipate what the cost of attendance is. It is really responding to them and what they have been asking for and what the University has been observing as some of the concerns students have when they come for clarifications on any one of these things.

2. Legislative update

Mr. Serna reviewed the Legislative Affairs (attached). HAFC sub-committee modified the LFC recommendation:

- Restore FY15 athletics funding
- Eliminate new RPSPs
- Increase at-risk funding to more than 6%
- Reduce new funding for higher education from 2% to 1%
- House approved HB2 with HAFC sub-committee recommendations
- Senate begins work on HB2 amendments
- Introduce amendments on Senate side to restore athletics and RPSPs

This applies to all institutions not just to the University.

Mr. Serna shared good news with the Board of Regents:

1. 16 university departments participated in Northern New Mexico University Day at the Legislature – Memorial approved in the Senate
2. More than 60 youth attended Northern Cheer Camp
3. 50 high school students participated in an College Outreach Day
4. 150 middle and high school students attended STEM Career day
5. More than 50 guests gathered to dedicate the Dr. Arturo Madrid book collection.

Upcoming events:

1. All Regional Tournament February 27 and 28, 2015
2. RoboRAVE Rally – March 7, 2015

Mr. Serna stated SB 60 was introduced and referred to two committees. We may strategize around getting it around one because there are no financial implications. Since there are no financial implications the University may be able to get it on to the Senate Floor more quickly. Typically when a Bill does not have any financial implications, Senate Finance or House Appropriations will forego hearing it but will not do it until they get an FIR that says there are no financial implications. Mr. Serna did an FIR for it at the request of LFC and DFA so they have a FIR now that shows there are no financial implications to the General Fund for the State of New Mexico. The University is following it to see if it gets through and upon meeting with Senator Cisneros he said the Regents have full power to change the name but this legislation allows the references to be made in statute and in law.

Mr. Serna stated the University had permission from the HLC before coming to the Board of Regents but a number of the accrediting agencies want a letter from the HLC so the letter has already been sent and the University is waiting for the HLC to send it back saying they approve the name was changed so the University can start sending it off to the accrediting agencies. Mr. Serna spoke with Scott Eccles, HED last week and told Mr. Eccles that the University also needed a letter from them. Mr. Eccles is also asking the attorney for HED to draft a letter saying that the Regents have the authority to change the name. If the Legislation does not get approved this session then the University will move it forward next session. All this will mean for the University is that in all references (statutes, new bills, etc.) they will still be officially the "College." What is important to note is, legally the schools name has never really changed from Northern New Mexico State School. The statute the University is changing is called "Common Convenience." It was changed when it was a technical vocational, it changed when it was a Community College, the statute changed in 2005 when it was a College and now the statute is changing to be a University.

Regent Garcia stated she would like to thank Senator Richard Martinez and Senator Cisneros for going through this with the University. Mr. Serna stated Senator Martinez was in the discussion about that change to statute and he wanted to be listed as co-sponsor.

Mr. Herrera asked Mr. Serna to speak about the RPSP. Mr. Serna stated the RPSP was for Student Support Services for \$100,000.

3. Approval of Rio Arriba County Resolution

Mr. Serna presented the Resolution of the Board of Regents of Northern New Mexico University; Adopting the Finalized Rio Arriba County Hazard Mitigation Plan. Regent Garcia stated the Resolution was brought to her for consideration by the Board of Regents. Regent Branch asked if the University has looked into see how to fix "Conoyer Air force Base" in El Vado. Mr. Serna stated the University has not checked. What is happening is members or entities in Rio Arriba County in developing the strategy which is now the Hazard Mitigation Plan. There is an overseeing agency who will adopt this plan along with it the requirements of those entities in Rio Arriba County. This Resolution would be accompanied with that plan to the overseeing agency as a note of support from the Regents for the Hazard Mitigation Plan. Mr. Serna has not yet seen the plan but the plan would be available if the Regents would like to request it from staff of Rio Arriba County.

Regent Powers moved for approval of the Resolution of the Board of Regents of Northern New Mexico University; Adopting the Finalized Rio Arriba County Hazard Mitigation Plan. Motion passed unanimously.

X. OLD BUSINESS

None

XI. EXECUTIVE SESSION

Regent Herrera moved to enter into Executive Session pursuant to discuss limited personnel matters regarding employee investigation, bargaining strategy, threatened or pending litigation subject to attorney-client privilege in which the University be a participant pursuant to provisions of NMSA 1978, Section 10-15-1(H)(2)(5) and (7).

A Roll Call vote was taken and all Regents voted unanimously to enter into Executive Session. The Board of Regents entered into Executive Session at 10:46AM.

XII. POSSIBLE ACTION ON EXECUTIVE SESSION

The Board of Regents returned from Executive Session by Roll Call Vote at 11:43AM and no decisions were made on executive session and no possible action – informational only. Regent Powers left the meeting at this time.

XIII COMMENTS FROM THE BOARD

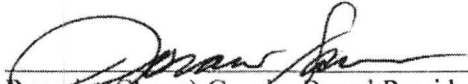
None.


XIV. ADJOURNMENT

Regent Herrera moved to adjourn. Motion passed unanimously. Meeting adjourned at 10:02AM.

Amy Pena, Recording Secretary

APPROVED:


Rosario (Chayo) Garcia, Board President


Alfred Herrera, Vice President
Damien L. Martinez